

**Lincoln, Nebraska  
August 14, 2009**

**COMMUNITY CORRECTIONS COUNCIL  
*MEETING MINUTES***

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The Community Corrections Council (Council) met Friday, August 14, 2009, 9:00 a.m., at Bryan LGH College of Health Sciences, Lincoln, Nebraska. The meeting was open to the public and was preceded by advance publicized notice in the Lincoln Journal Star.

**Members present:**

Scot Adams  
Mike Behm  
Esther Casmer  
Brenda Council  
Jeff Davis  
Eleanor Devlin  
Thomas Dorwart  
Ellen Fabian-Brokofsky  
Darrell Fisher  
Karen Flowers  
Robert Houston  
Joe Kelly  
Robert Lindemeier  
Pete Pirsch  
Janice Walker

**Members absent:**

Cathy Gibson-Beltz  
John P. Icenogle, Vice-Chair

**Others present:**

Eric Asboe  
Brad Ashford  
Bruce Ayers  
Robert Bell  
Scott Carlson  
Joan Dietrich  
Mike Dunkle  
Steve King  
John Krejci  
Jeff Newton  
Doug Nichols  
Mike Overton  
Lamont Rainey  
Steve Rowoldt  
Larry Wayne  
David Wegner  
Joe Wilcox

**Council Staff present:**

Linda Krutz, Executive Director  
Jeffrey Beaty, Policy Analyst  
Tia Bachman, Admin. Assistant

## **CALL TO ORDER, WELCOME, & OVERVIEW**

Karen Flowers, District Court Judge, called the Council meeting to order at 9:03 a.m., announced the meeting is subject to the Open Meetings Act and gave an overview of the meeting. Attendance is indicated above.

Flowers recognized Bob Lindemeier, County Attorney, and Joe Kelly, County Attorney, as being reappointed by the Governor.

## **APPROVAL OF MINUTES**

The June 19, 2009 meeting minutes were approved as presented.

## **ELECTION OF COUNCIL CHAIRPERSON & VICE-CHAIRPERSON**

Flowers said Scot Adams, Director of the Division of Behavioral Health, Department of Health and Human Services (DHHS), and John Icenogle, District Court Judge, were nominated for the position of Council Chairperson.

A ballot vote was conducted by all present Council members. Brenda Council, Cathy Gibson-Beltz, John Icenogle, and Pete Pirsch, were absent from voting. Adams was elected as Council Chairperson.

*A motion was made by Karen Flowers and seconded by Scot Adams to nominate John Icenogle for Vice-Chairperson. The motion passed by acclamation.*

## **COMMUNITY CORRECTIONS FINANCIAL REPORT**

Bruce Ayers, Nebraska Commission on Law Enforcement and Criminal Justice (Crime Commission), gave the *Community Corrections Financial Report*. All Council General Funds and Parole Cash Funds have been allocated. The Council Uniform Data Analysis Fund has \$431,032 unallocated funds available for new contracts.

Ayers then presented the *Community Corrections Council Fees Report* for the period of July 1, 2008 to June 30, 2009. The Uniform Data Analysis Fund has a balance of \$1,179,778. Probation Fees/Reimbursements has a balance of \$9,901,606. Parole Fees has a balance of \$757,228.

Ayers said a total of \$544,744.70 of unexpended general fund contract dollars from Fiscal Year (FY) 07-08 and 08-09 contracts is available to be re-awarded. The Legislature added a provision to the main budget bill that allows for all unexpended funds on June 30, 2009 to be re-appropriated to assist agencies struggling with zero increase budgets during the next two years.

Janice Walker, State Court Administrator, requested the unexpended funds be used to fund new drug courts. Ayers said the funds are for a onetime expense and not to be used to

sustain a court. Ellen Fabian-Brokofsky, Probation Administrator, said the unexpended general funds are the result of vacancy savings in the Reporting Centers (RC).

## **FUTURE OF COMMUNITY CORRECTIONS**

Brad Ashford, Senator and Chair of the Judiciary Committee, spoke of the need for community corrections in Nebraska. The Judiciary Committee would like to work with the Council to create sustainable initiatives to divert offenders and requested four or five initiatives from the Council prior to the 2010 legislative session.

## **SENTENCING AND RECIDIVISM TASK FORCE**

Pete Pirsch, Senator and Chair of the Sentencing and Recidivism Task Force (Task Force), gave an update on the meeting held on August 13, 2009. The Task Force requested a list of action items to increase the capacity of community corrections.

Brenda Council, Senator, said the Task Force can assist the Council in fulfilling the existing statutory mandate by giving recommendations to the legislature on ways to reduce the inmate population. The initiatives should go through the Council to the Judiciary Committee as a result of the work of the task force.

## **TARGET POPULATION REPORT & COMMUNITY CORRECTIONS PROGRAMS REPORT**

Mike Dunkle, Crime Commission, presented the *Target Population Report, June 2009*. Felony Drug Offenders (FDO) admissions to the Department of Correctional Services (DCS) are down 14 percent. FDO admissions to parole are down 10 percent and FDO admissions to probation are down 19 percent. The total FDO population in DCS is down 6 percent, and FDO sentenced to three years or less is down 23 percent.

Esther Casmer, Parole Board, said the number of offenders on parole may be decreasing due to the requirement of treatment being completed prior to parole eligibility. FDO are also being incarcerated with longer sentences. Steve King said the Problem Solving Courts (PSC) data is not being included in the data on FDO presented.

Fabian-Brokofsky said that where Specialized Substance Abuse Supervision (SSAS) is available it is being used to capacity. Where SSAS and/or PSC are not available, offenders will go directly to DCS. Pirsch questioned which would be more cost effective: to start from ground zero in western Nebraska where there are no SSAS programs or PSC, or to expand current sites. Kelly said there is also a fairness issue and questioned whether offenders should go to prison simply because there is not an availability of SSAS or PSC in their area.

Casmer said inmates with less than one year to serve are not receiving adequate rehabilitative services due to time constraints on the programs. Council suggested retaining inmates in the county jails if their sentence amounts to less than one year with jail time credit. Jeff Davis, Sarpy County Sheriff, said inmates would have more services available to them at DCS than at the county jails.

Flowers suggested building a meaningful reentry program. It could assist the parole board's decision to release an offender since the offender would then have programming available to them.

Dunkle then presented the *Community Corrections Programs Reports, June 2009*. PSC are operating at 63 percent of capacity in June 2009. Lancaster County Adult Drug Court and District 16 Adult Drug court (Dodge County) were both operating above 100 percent capacity. In total, the adult drug courts had 27 new admissions and 60 departures. At least 82 percent of departures were graduations. SSAS has a total population of 309 individuals in June 2009 and is operating at 99 percent capacity. Admissions to SSAS consist of 88 percent probation clients and 13 percent parole clients.

A fifteen minute break was called by Flowers.  
The Council reconvened at 11:01 a.m.

#### **SENTENCED ADMISSIONS/ REVOCATIONS/VIOLATION OF PROBATION/VIOLATION OF PAROLE**

Steve King, DCS, presented *Sentenced Admissions/ Revocations/Violation of Probation/ Violation of Parole report*. Assault, drugs, and theft continue to be the highest Most Serious Offense (MSO) for offenders with 12 months or less to serve. Of these MSO's, 81.4 percent are nonviolent crime convictions, while only 18.6 percent are convicted of a violent crime categorized as murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault.

Davis requested the Motor Vehicle category be disseminated into the separate categories it consists of. Pirsch requested Sex Offenses to be broken down similarly. Beaty requested a section that would include the breakout of multiple convictions at the time of admittance. Fabian-Brokofsky requested a breakout of technical violations versus law violations.

Houston noted parole is also using sanctions for technical violations. The offender may be placed on an electronic monitor or placed in a work release center for parole stabilization for 30 to 90 days. DCS is also piloting a reentry program that has offenders living at home but checking in and conducting urinalysis weekly. The legislature has allowed DCS a per diem of \$5,800 a year for the pilot program.

#### **DUI ANALYSIS**

Jeff Beaty, Council, presented the *Driving Under the Influence (DUI) Update*. Data was refined to reflect DUI offenders admitted to DCS with only a DUI conviction, and offenders with a DUI plus a non-violent motor vehicle offense. Between 2000 and 2009, there were 663 admissions for DUI only, and 290 admissions for DUI plus a non-violent motor vehicle offense.

Legislative changes in 2006 increased DUI penalties and added separate penalties for high blood alcohol content which have resulted in an increase in DUI admissions since that time. From the beginning of 2007, there were 302 admissions to DCS for DUI only and 85 admissions for DUI plus a non-violent motor vehicle offense.

For admissions by penalty class: 28 percent are Class 2 and 3 felonies (fifth offense DUI and fifth offense DUI with high Blood Alcohol Content (BAC) convictions); 65 percent are Class IIIA and Class IV felonies (fourth offense DUI, third offense DUI with high BAC, and felony driving under revocation/suspension convictions); 7 percent are misdemeanor DUI offenses (refusal to test and driving under suspension).

#### **JUSTICE BEHAVIORAL HEALTH COMMITTEE UPDATE**

Steve Rowoldt, Probation Administration, gave an update on the Justice Behavioral Health Committee (JBHC), a sub-committee of the Council. JBHC last met on June 10, 2009. The minutes from the June 10, 2009 and March 11, 2009 meetings were included in the packet.

JBHC members participated in a teleconference with Judge James E. Doyle, Dawson County District Court and the Midwest Nebraska Drug Court. Doyle voiced his concern on whether the treatment being provided to the drug court participants is evidence based and treatment that will give them the necessary skills and the ability to change their thinking to allow them to become drug free. Doyle requested a standard or model to measure the validity of programs that could be applied to insure that individuals participating in a treatment program will achieve the desired results.

Members had discussed peer reviews and licensing board options. Registered providers received the Provisional Criminal Justice Substance Use Disorders Standards of Practice (Provisional Standards) and were given the opportunity to provide feedback to be discussed at the September 9, 2009 meeting.

Kathleen Grant, M.D., is reviewing the Building System Capacity for Implementing Evidence Based Practices in Substance Abuse Treatment and Prevention (R34) grant for possible funding.

Fabian-Brokofsky suggested a representative from JBHC give a presentation to the Task Force on the relationship between the Provisional Standards, the Fee for Service Voucher program, and JBHC. Council concurred.

#### **EVALUATION PLAN**

Linda Krutz, Executive Director, Council, presented *Developing Nebraska Community Corrections Council Evaluation Strategy: Recommendations for an Initial Framework* created in response to discussion at the June 19, 2009 Council meeting.

Council staff interviewed Scott Carlson, Statewide Coordinator for Problem Solving Courts, Deb Minardi, Deputy Probation Administrator, and Coordinator of Community-Based Supervision Programs and Services, and Cathy Gibson-Beltz, Adult Parole Administrator.

PSC are currently awaiting approval on a Federal Bureau of Justice Assistance (BJA) grant worth approximately \$180,000, to evaluate all PSC in Nebraska. Carlson suggested a cost-efficiency analysis comparing adult drug courts and SSAS as a future evaluation. Roles for the

Council could include dissemination of evaluation information and advocacy for evidence based programs. PSCs have participated in numerous evaluations including outcome, process, and cost-benefit.

Probation has participated in a number of evaluations recently. The SSAS program will be ready for an outcome evaluation with a cost-analysis component when a sufficient number of participants graduate and/or a cost-efficiency analysis comparison of Adult Drug Courts. The voucher program could be evaluated using a broader analysis that would focus on the overall impact of the services on community corrections in Nebraska

Nebraska Adult Parole is accredited through the American Correctional Association (ACA) and is audited every three years. Gibson-Beltz requested a future evaluation of the use and efficacy of the risk assessment instruments. Parole would also welcome an evaluation to assess the impact of both violations and revocations procedures, and the development of a matrix of sanctions and violations. The Parole Information Management System (PIMS) is expected to go live in September 2009. An evaluation or audit of PIMS, with regard to the production of data and reports, could occur at that time.

Houston suggested the steering committee, with input from probation and parole, build the matrix of sanctions and violations. Fabian-Brokofsky noted that probation has a matrix they were trained with that could be used as a template. Wayne and Rex Richard, DCS, will work with Minardi to develop a matrix.

Dunkle gave the following recommendations:

- Recommendation 1: The Council should form a steering committee to advise the Council regarding evaluations and provide support for evaluations conducted by the Council and other agencies.
- Recommendation 2: The Council should define the scope of evaluations it is prepared to conduct or support.
- Recommendation 3: The Council should establish a policy for funding evaluations.

Adams recommended the following be added to the Program/Service list on Table 3: Supreme Court, Council, Jails, and DCS. Houston requested local researchers be considered to reduce the use of travel expenses absorbed by the evaluators. Flowers said creating a policy for evaluations can only be used on future evaluations.

Adams requested a draft policy statement be presented at the next Council meeting that would speak about targets of funding, give a directional sense of intent, further definition of what could be included, and a statement of the breath of the scope. A steering committee would be the next step.

## **VERA CORRESPONDENCE**

Krutz noted a letter sent to Peggy McGarry, Director of the Center on Sentencing and Corrections, Vera Institute of Justice (Vera), as a result of the June 18, 2009 Council meeting

notifying Vera that the Council is not prepared to contract for an outcome study of the Specialized Substance Abuse Supervision (SSAS) program.

Krutz also noted the response letter from McGarry, thanking the Council for the opportunity to provide technical assistance and research support to advance various sentencing and corrections reforms in Nebraska. Flowers said she spoke with Julie Rogers, an associate with Vera, and she said that the Council would have to go to Vera if they would like to have Vera perform any further studies or evaluations.

## **2010 PROPOSED LEGISLATION**

Fabian-Brokofsky said the *Revised strategic planning recommendations* prepared by DCS, Parole, Probation, PSC, and Council staff, and presented in May 2008, would be a good place to start prioritizing items for legislative consideration.

Beaty said John Icenogle, District Court Judge, requested bylaws be drafted and reviewed by the Council at the next meeting.

## **ADJOURNMENT**

There being no further business, at 12:57 p.m. the meeting was adjourned.

The next scheduled meeting of the Council is Friday, September 18, 2009, 9:00 a.m., at Bryan LGH College of Health Sciences.

Respectfully submitted,

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Tia M. Bachman  
Administrative Assistant